

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARGARET PATTON,

Plaintiff,

vs.

WAL-MART STORES, INC.,

Defendant.

2:12-cv-02142-GMN-VCF

ORDER

Before the court is Defendant Wal-Mart Stores, Inc.'s Rule 12(f) Motion to Strike Plaintiff's Argument (#36¹). Plaintiff Margaret Patton filed an Opposition (#38); and Wal-Mart replied (#39).

Wal-Mart's motion to strike is denied. Wal-Mart asks the court to strike an argument from Patton's reply brief (#34), which concerns Patton's pending motion for sanctions (#26), because the argument was not previously raised and, purportedly, is waived. (*See* Def.'s Mot. to Strike (#36) at 2). Wal-Mart makes this motion pursuant to Federal Rule of Civil Procedure 12(f).

Rule 12(f) provides, "[t]he court may strike from a *pleading* an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." FED. R. CIV. P. 12(f) (emphasis added). Reply briefs are not pleadings. *See* FED. R. CIV. P. 7(a); *see also* 5C WRIGHT & MILLER, FEDERAL PRACTICE & PROCEDURE 1380 & n. 8.5 (3d ed. 2012) ("Rule 12(f) motions only may be directed towards pleadings as defined by Rule 7(a); thus motions, affidavits, briefs, and other documents outside of the pleadings are not subject to Rule 12(f).")

¹ Parenthetical citations refer to the court's docket.

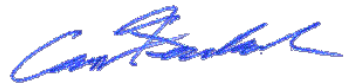
1 The court notes that is has inherent authority to strike a party's papers and motions. *See Metzger*
2 *v. Hussman*, 682 F. Supp. 1109, 1110 (D. Nev. 1988) (Chief Judge Reed). However, the court declines
3 to exercise that authority at this time and will reconsider Wal-Mart's concern when the court addresses
4 Patton's motion for sanctions (#34).

5 ACCORDINGLY, and for good cause shown,

6 IT IS ORDERED that Defendant Wal-Mart Stores, Inc.'s Rule 12(f) Motion to Strike Plaintiff's
7 Argument (#36) is DENIED.

8 IT IS SO ORDERED.

9 DATED this 4th day of October, 2013.

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13 CAM FERENBACH
14 UNITED STATES MAGISTRATE JUDGE
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